

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 06-0347P
Individual Income Tax
For the Calendar Year 2005**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. **Tax Administration** – Penalty

Authority: IC § 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the underpayment penalty.

STATEMENT OF FACTS

The underpayment penalty was assessed on the filing of a calendar year individual income tax return for the year 2005. The taxpayer is an Indiana resident.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the penalty be abated as the taxpayer thought Ohio was reciprocal with Indiana.

The Department points out the underpayment was \$2300 which the Department considers material with this taxpayer.

With regard to compliance, the taxpayer had a prior error in 2002.

The regulation which references negligence is 45 IAC 15-11-2(b) which states:

Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer.

Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed

upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.

TB/DR/DK-September 21, 2007